

REMARKS

This paper is filed in response to the Office Action dated December 14, 2004. As this paper is filed on June 14, 2005 with a Request for Continued Examination and a three-month extension of time, the paper is timely filed.

I. Status of Amendments

Claims 1-21 were pending prior to this response, with claims 4-7 and 19-21 withdrawn. By this amendment, claims 19-21 have been canceled, claim 1 has been amended, and claims 30-39 have been added. Consequently, claims 1-18 and 30-39 are presently pending, with claims 4-7 withdrawn. Because applicants have previously paid for twenty-nine total claims, no fee is due because the net claims presented by this amendment total twenty-eight.

II. Response to the December 14 Office Action

Claims 1, 9-11 and 13 were rejected under 35 U.S.C. 102(e) as allegedly anticipated by Muir et al. (U.S. Patent No. 6,644,664). Claims 2, 3, 8, 12, and 14-18 were rejected under 35 U.S.C. 103 as allegedly unpatentable over Muir et al.

Applicants have reviewed the comments, especially those bridging pages 2 and 3 of the December 14 Office Action. Applicants have amended claim 1, and have the following comments in regard to Muir et al., in light of the clarifying comments on pages 2 and 3 of the December 14 Office Action.

As amended, claim 1 recites a gaming apparatus including a display unit that is capable of generating video images, a user input device, a value input device, and a controller operatively coupled to the display unit, the user input device, and the value input device, the controller comprising a processor and a memory operatively coupled to the processor. The controller is programmed to cause a three-dimensional video image of a casino game to be generated on the display unit, the three-dimensional video image including a plurality of layers, each layer depicting a game surface such that the game surface appears to be on a different plane than the game surfaces of other layers, each game surface including a plurality

of game indicia. The controller is also programmed to receive a player selected game option from the user input device, the player selected game option being indicative of only one of a first win evaluation method or a second win evaluation method, wherein the first win evaluation method is different than the second win evaluation method, and wherein the first win evaluation method is a three-dimensional win evaluation method associated with game indicia of game surfaces of different layers and the second win evaluation method is a two-dimensional win evaluation method associated with game indicia of a game surface of one of the plurality of game layers, the player selected game option including a selection of any one of the plurality of layers on which the second win evaluation method is to be performed if the second win evaluation method is selected. Further, the controller being programmed to allow a person to make a wager, to perform the first win evaluation method to determine a value payout associated with an outcome of the casino game if the player selected game option is indicative of the first win evaluation method, and to perform the second win evaluation method to determine a value payout associated with an outcome of the casino game in the any one of the plurality of layers selected if the player selected game option is indicative of the second win evaluation method.

In particular, claim 1, as amended, that recites the three-dimensional video image including a plurality of layers, each layer depicting a game surface such that the game surface appears to be on a different plane than the game surfaces of other layers, each game surface including a plurality of game indicia. Further, claim 1 now recites that the second win evaluation method is a two-dimensional win evaluation method associated with game indicia of a game surface of one of the plurality of game layers, and that the player selected game option includes a selection of any one of the plurality of layers on which the second win evaluation method is to be performed if the second win evaluation method is selected. Further, amended claim 1 recites that to perform the second win evaluation method, the controller determines a value payout associated with an outcome of the casino game in the any one of the plurality of layers selected if the player selected game option is indicative of the second win evaluation method.

In addressing the rejection based on Muir et al., applicants again refer to the passage at column 4:11-19:

Referring now to FIG. 4 of the drawings yet a further embodiment is shown. In this case, indicia on the faces 46 of the elements 44 are standard spinning reel-type indicia. Horizontal, vertical and zigzag paylines are applicable to this game 20. In addition, indicia on the side faces and top faces also result in winning combinations if they appear on the relevant paylines. Still further, wins may be achieved for scatter-type combinations.

Applicants submit that the above-cited passage indicates that a player's payline decisions are made in the plane that faces the player ("front"), as shown in the Figures. Applicants further submit that to the extent that indicia displayed in a plane other than the frontal plane may be reviewed for winning combinations, the determination as to whether certain indicia should be reviewed is made according to the player's payline selections made in the frontal plane. In this regard, applicants note that the above-cited passage reads that side faces and top faces may *also* result in winning combinations if they appear on the relevant paylines, which applicants understand as the paylines originally selected (i.e., in the frontal plane).

Applicants further submit that the explanation of the term "zigzag" in the December 14 Office Action does not contradict applicants' position. Specifically, the suggestion was made that a "zigzag" payline may be formed of the top faces of the objects at matrix positions 1-1, 2-2, 3-3, 2-4, and 5-1. Applicants agree that, in keeping with the passage cited above, the top faces of the objects at positions 1-1, 2-2, 3-3, 2-4, and 5-1 may define a winning combination according to the passage cited above. However, it should be appreciated that the applicants' choice of payline is still made in the frontal plane, even though the winning combination is formed in the side plane.

Consequently, applicants submit that the amended subject matter of claim 1 distinguishes the Muir et al reference, even as that reference is further explained in the December 14 Office Action, with particular reference to the limitations specifically recited above. For example, Muir et al. does not disclose, teach or suggest a player selected game option including a selection of any one of the plurality of layers on which a two-dimensional win evaluation method associated with game indicia of a game surface may be performed. Further, given the absence of such a disclosure, teaching or suggestion, Muir et al. further lacks a determination of a value payout associated with an outcome of the casino game in the any one of the plurality of layers selected if the player selected game option is indicative of

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the second win evaluation method. Instead, while the payline selections may be made in the frontal plane and the paylines selected may result in winning combinations being determined in other planes, Muir et al. does not disclose, teach or suggest that the payline selections can be made in planes other than the frontal plane (i.e., selecting the plane in which the allegedly corresponding two-dimensional win evaluation method may be performed).

Given that Muir et al. does not disclose, teach or suggest the subject matter of claim 1, claim 1 is patentable over Muir et al. Further, as claims 2-18 and 30-39 depend from claim 1, these claims are allowable at least for the reason that claim 1 is allowable.

In view of the above amendment, applicant believes the pending application is in condition for allowance. If there is any matter that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below. In any event, the Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 13-2855, under Order No. 29757/P-510. A duplicate copy of this paper is enclosed.

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Respectfully submitted,

By 

Paul C. Craane

Registration No.: 38,851

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant